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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,681	06/06/2001	Nimrod Ben Yehuda	BEN-YEHUDA 1	6005

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EXAMINER

PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 01/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,681

Applicant(s)

BEN YEHUDA ET AL.

Examiner

Helen F. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 day MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

The restriction requirement previously required is withdrawn and replaced by this restriction due to the complexity of the claims.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-42, 43-46, 50-53, 57, 58, drawn to a process of treating plant matter and foodstuffs and product thereof.

Group II, claim 47 drawn to a composition for treating plant matter and foodstuffs.

Group III, claim 48, drawn to a composition for treating plant matter and foodstuffs and to promote apical dominance.

Group IV, claim 49, process for reducing and eliminating harmful organisms from earth and other growth media and substrates.

Group V, claims 54 and 55, process for treating plant matter and foodstuffs which food stuffs are tubers, bulbs and seeds, grains, etc.

Group VI, claim 56, a process for reducing harmful organisms on equipment etc.

The inventions listed as Groups I-6 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I contains the special technical feature (STF) of treating plant matter, during various phases of

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production, for particular reasons such as increasing yield and health hazards, and black-heart formation, with hydrogen peroxide and other optional components.

This feature is not required for Group II, claim 47, a composition which does not require the STF of the process of Group I, as the composition can also be used to treat earth, other growth media and substrates, etc. which are not mentioned in Group I.

The STF of Group III is a different composition that further contains metal ions which is not required in the previous groups.

The STF of Group IV is to eliminating harmful organisms from earth and other growth media and substrates, which is not the type of material being treated above which are plant materials and foodstuffs.

The STF of Group V is that it is to a different composition for treating, which includes silver ions and has a synergistic effect.

The STF of Group VI is that it is for reducing harmful organisms on equipment, features not required previously.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: in Group I, claim 1, species of (a) to increase yields, (b) sizes, (c) eliminate health hazards, (d) impart storage stability, (e) extend shelf life,

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(f) inhibit premature sprouting, (g) rooting, (h) black-heart formation, (i) germination, (J) blossoming, (K) losses in quality, (l) losses in quantity. One species from this group must be chosen.

The second group of species in claim 1 is "by treating the said plant matter or foodstuffs" during (a) storage, b, distribution, c, marketing, d, preplanting, e, growing, and f, pre and post harvest . One species from this group must be chosen.

Species in Group II are as in claim 47, a, storage, b, distribution, c, marketing, d, preplant, e, growing, f, pre and post harvest. One species from this group must be chosen.

A 2nd group of species in Group II in claim 47, is from the group starting with "to increase (a) yields, b, eliminate health hazards, c, impart storage stability, d, extend shelf life, e, inhibit premature sprouting, f, rooting, g, black heart, h, germination, I, blossoming, j, decay, k, pathogenic losses, l, other process causing losses in quality, or quantity, j, apical dominance breakdown. One of these must be chosen. X

A 3rd group of species in Group II in claim 47 is found in the group starting with "said composition ", i. e. a, treating earth, b, growth media, c, substrates, d, equipment, e, materials, f, water, g, spaces and surfaces. X

A 4th group of species in claim 47 is on page 7, roman numerals i. to v. One of these optional ingredients needs to be chosen.

In Group III, claim 48 to a composition, the species are found to be storage, distribution, marketing, preplanting, growing, pre and post harvest, to increase yields, eliminate health hazards, impart storage stability, extend shelf life, inhibit premature

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sprouting, rooting, black heart, germination, blossoming, decay, pathogenic losses, other process causing losses in quality, or quantity, apical dominance breakdown. One of these must be chosen.

A second group of species is found in claim 48 starting with "said composition ", i. e. a, treating earth, b, growth media and © substrates, d, equipment, e, materials, f, water, g, spaces and surfaces.

A third group of species is found on page 8, I through (iv). One of these optional items must be chosen.

In Group IV, claims 54 and 55, species are found on page 9, as (a), storage, distribution, marketing, preplanting, growing , pre and post harvest, yields, eliminate health hazards, impart storage stability, extend shelf life, inhibit premature sprouting, rooting , black heart, germination, blossoming, decay, pathogenic losses, other process causing losses in quality , or quantity,

A second group of species if found in "treating the said plant matter or food stuffs (a) during storage, b, distribution, c, marketing, d, pre-planting, e, growing, f, pre and post harvest.

A 3rd group is the optional ingredients items I through V.

In Group VI, claim 56, species are equipment, materials, water, spaces and surfaces. One of these must be chosen.

A 2nd group of species is found in the optional ingredients of items i-iv on page 11.

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Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner: this is shown above.

Any inquiry concerning this communication should be directed to Helen F. Pratt at telephone number 703-308-1978.

Hp 1-24-03


HELEN PRATT
PRIMARY EXAMINER